



State of Idaho

## DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098  
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

October 31, 2003

Ken and Jim Andrus  
6948 E Old Oregon Trail Rd  
Lava Hot Springs, ID 83246

The Thelma Redford Trust  
2882 Nipper Rd  
Bancroft, ID 83217

Re: Unauthorized Use of King Creek Grazing Pipeline as Point of Diversion for Andrus  
and Redford Water Rights from Toponce Creek

Dear Gentlemen,

The Department recently received a complaint regarding your use of the King Creek Grazing Association pipeline as a point of diversion for your Toponce Creek water rights. The head of the pipeline is located in the SWSE of Section 33, Township 6 South, Range 38East. I have reviewed your water rights on Toponce Creek, including your Snake River Basin Adjudication claims and recommendations. These rights do not authorize or include the pipeline location as either a valid or claimed point of diversion. The rights owned by King Creek Grazing Association appear to be the only rights on Toponce Creek that authorize use of the pipeline as a valid point of diversion from the Creek. There are also no pending water right transfer applications on file with the Department that propose adding the pipeline as a point of diversion to your water rights.

Since no water rights appear to authorize your diversion of water from Toponce Creek at the King Creek Grazing pipeline, I request your cooperation in:

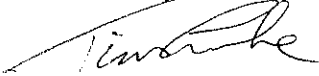
- 1) Identifying what water right authorizes your diversion of water to the pipeline if our records are not correct.
- 2) Do not continue the diversion of your water rights from Toponce Creek to the pipeline.
- 3) Add the pipeline as a point of diversion to your water rights or change the point of diversion under your water rights to the pipeline by obtaining an approved water right transfer from the Department.

**Please respond to our office within 14 days of the date of this letter regarding this matter. Please note that the diversion and use of water in Idaho that is not in**

**conformance with a valid water right is illegal pursuant to §42-351, Idaho Code and pursuant to §42-1701B, Idaho Code, civil penalties for illegal water use may be \$300 annually for each acre irrigated, in whole or in part, by the illegal use or diversion.**

You may contact me directly at 208-327-7864 to discuss this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Luke", written over a horizontal line.

Tim Luke

Manager, Water Distribution Section

CC: Steve Hebdon, Watermaster, Water District 29  
King Creek Grazing Association  
Mike and Eileen Chambers  
Roger Warner, IDWR Eastern Regional Office  
Cindy Bird, IDWR Soda Springs Field Office